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AICPA *Washington Report*

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HEALTH, EDUCATION, AND WELFARE, DEPARTMENT OF

S.570, President Carter's hospital cost containment proposal, was approved by the Senate Labor and Human Resources Subcommittee on Health on 5/16/79. The proposal caused heated debate between the Democratic and Republican members of the Subcommittee and ended in the defeat of a series of Republican amendments to the bill. Among the rejected amendments were proposals to: allow states with their own mandatory cost control programs the option of excluding wage increases for non-supervisory personnel from the limit established by S.570; increase the net service intensity allowance from a 1% to a 3% minimum; prohibit HEW from requiring any reporting by hospitals other than a single piece of information on employee wages; and eliminate a provision granting HEW the authority to audit any hospital that applies foreign exceptions under the mandatory program. Under the Subcommittee-approved version of this proposal, the rate of expense increase must be slowed to 10.9% by the end of this year, or mandatory controls will be implemented. If such controls go into effect, individual hospitals that had kept their own voluntary goals would be exempt, along with hospitals in states with mandatory programs that meet federal requirements.

Yet another proposal for national health insurance was announced last week by Sen. Edward Kennedy (D-Mass), chairman of the Senate Labor and Human Resources Subcommittee on Health, and Rep. Henry A. Waxman (D-Calif), chairman of the House Commerce Health Subcommittee. The Health Care for All Americans Act, which has not yet been formally introduced, is being developed on the social insurance principles embodied in the Health Security Act, and would implement those principles through private insurers. The major features of the program are: premiums related to income; limits on the rise of health costs through budget controls and reimbursement reforms; the redress over time of the maldistribution of resources; reform of Medicaid; and the retention and improvement of Medicare.

In a related development, President Carter is currently meeting with HEW Secretary Califano, and representatives of the Domestic Policy Staff, OMB, and the Council of Economic Advisers to review options for the national health insurance proposal he will be sending to Congress later this year. According to White House sources, the President is planning to submit a more limited plan than that proposed by Sen. Kennedy and Rep. Waxman in hopes that some benefits will be approved this year "for the American people who need this thing now."

INTERSTATE COMMERCE COMMISSION

A policy statement issued by the ICC on financial and statistical reporting appeared in the 5/10/79 Fed. Reg., pp. 27537-38. It describes the findings of a recent Commission Data Task Force in which the staff made an extensive review of the reporting system in order to modify and improve the Commission's system for collecting, processing and publishing information and to reduce whenever possible the paperwork burden imposed by its regulations on industry and the public.

JUSTICE, DEPARTMENT OF

Government authority to challenge mergers of business partnerships is nearer to reality with the almost unanimous approval of the Senate Judiciary Committee in a recent vote. S.390, the "Antitrust Procedural Improvements Act of 1979", introduced by Sen. Howard Metzenbaum (D-Ohio), will provide the Justice Department with the authority to challenge the mergers of unincorporated entities

such as major legal and accounting firms. Prior to the amendments offered in Metzenbaum's bill, Federal antitrust statutes were limited to actions against corporations. In a 2/27/79 letter to the Subcommittee on Antitrust and Monopoly, John Shenefield, Assistant Attorney General for Antitrust, argued for passage of this legislation, singling out the accounting profession as having the potential to create "anticompetitive economic concentration through acquisitions." Shenefield concluded that existing law was probably ineffective in the area of unincorporated associations.

In a related matter, Shenefield recently addressed the State Bar of Arizona and touched on areas which may preview new Justice Department initiatives. Choosing as his topic sentence the "antitrust implications of self-regulation in the learned professions," Shenefield warned that prior exceptions for doctors, lawyers, engineers, accountants, and other "learned" professionals were a thing of the past. Citing recent favorable court cases, he stated that antitrust enforcement and advocacy in the professions was clearly established, putting an "end to the notion of any learned profession exemption." Shenefield further stated that state involvement in the adoption of rules and practices for professional groups does not immunize them from antitrust challenge.

LABOR, DEPARTMENT OF

The ERISA Improvements Act of 1979 (S.209) was approved by the Senate Human Resources Committee on 5/16/79. S.209, introduced by Sens. Harrison Williams (D-NJ) and Jacob Javits (R-NY) was designed to stimulate the creation of more private sector retirement plans, consolidate the administration and enforcement of ERISA, and provide for tax deductions for employee contributions and tax credits for employers establishing qualified plans (see the 2/5/79 Wash. Report). Several amendments to the bill were adopted prior to a final committee vote; among these were amendments: imposing time limits on DOL for processing prohibited transaction exemptions; exempting state laws regulating health care benefits from ERISA's preemption provisions; codifying the elapsed time method of measuring employee service for eligibility, vesting, and accrual purposes; and extending special tax treatment for lump sum distributions which initially was provided for multiemployer plan participants to participants in plans of non-profit organizations. Before S.209 can go to the Senate floor for consideration, it must be reported out by the Finance Committee.

OFFICE OF MANAGEMENT AND BUDGET

A comprehensive program to resolve the major financial issues facing the government has been launched by OMB, in cooperation with the General Accounting Office and Office of Personnel Management. Under this program, OMB will be meeting with the heads of selected departments and agencies to discuss individual issues in detail. Initially, they will focus on the following priority issues: accounting systems, internal control, cash management, audit follow-up, outlay estimating, debt collection, grant financing, and grant accountability.

OVERSEAS PRIVATE INVESTMENT CORPORATION

William M. Landau, CPA, has been nominated to be a member of the board of directors of the OPIC by President Carter. Mr. Landau is currently a managing partner in the firm of Mann, Judd, Landau which he joined in 1951. Mr. Landau is a CPA in the states of New York, Illinois, and California. He is a member of AICPA and the New York Bar Association, and he has served on various Institute committees.

SECURITIES AND EXCHANGE COMMISSION

The proposed codification of the Federal securities laws will be the subject of congressional hearings this year according to Rep. Bob Eckhardt (D-Tex). Rep. Eckhardt chairs the House Commerce Oversight and Investigations Subcommittee, one of the two House Commerce subcommittees that will conduct hearings on the proposed code which is a project of the American Law Institute. Speaking in Washington last week, Rep. Eckhardt was pessimistic about the future of the 700-page draft. He noted that consideration of the code would take at least several years and stated that a basic question will be "should the code be enacted at all?" Rep. Eckhardt did not give any indication when the hearings would take place. It has been reported that the draft will not be introduced in Congress until the SEC takes a formal position on the code. SEC endorsement is deemed to be critical for the code's ultimate approval.

SMALL BUSINESS ADMINISTRATION

Legislation reauthorizing the SBA through fiscal 1981 has been passed by the Senate. The bill (S.918) included a provision to establish a three-year pilot program for small business development centers (see the 4/23/79 Wash. Report) and incorporated another proposal (S.388) recently approved by the Senate to establish an employee stock ownership loan program within SBA. HR 4011, a companion bill to S.918, is currently scheduled for floor consideration on 5/22/79. Because the authorization provided by the two proposals is substantially different, a conference is expected.

SBA has issued new regulations in an attempt to cut down on non-repayment of loans by economically disadvantaged businesses. According to the Administration, abuse in this area has reached a high of \$19 million. Under the regulations, the small business loan system will be more closely examined, an "eligibility office" will be created to assess businesses entering the program, a computerized data system will be used to monitor loan repayments, and an Office of Program Surveillance and Assistance will monitor activities in local and district offices. In addition, the SBA will be applying more stringent guidelines in the award of contracts to economically disadvantaged businesses. Oversight hearings on the SBA are currently being held by the House Small Business Oversight Subcommittee. The next session is scheduled for 5/21/79, and the hearings will continue during May and June.

TRANSPORTATION, DEPARTMENT OF

Five two-day workshops designed to help practitioners with new uniform accounting and reporting requirements for Federal grants will be held this summer. Sponsored by the Department's Urban Mass Transportation Administration, the workshops will answer questions raised by these new procedures. The sessions will be held in San Francisco on 6/7-6/8; Dallas on 6/11-6/12; Chicago on 6/14-6/15; Atlanta on 6/18-6/19; and New York on 6/21-6/22. For further information on registration for the sessions, contact Charles H. Eichenberger at 202/426-9157.

TREASURY, DEPARTMENT OF

A second bill to repeal the "carryover basis" rules has been introduced by Sen. Robert Dole (R-Kan), ranking minority member of the Senate Finance Committee. The bill, S.1163, is identical to S.112, a carryover repeal bill he introduced earlier this year. S.1163 has 22 cosponsors which demonstrates "the broad bipartisan support for the repeal of the carryover basis" according to Sen. Dole.

Three other members of the Finance Committee joined in sponsoring the bill, although Chairman Russell Long (D-La) did not. Sen. Long has promised, however, to vote for repeal of the controversial estate tax rules.

The percentage of tax returns audited by the IRS will drop in 1980 according to testimony by Commissioner Jerome Kurtz last week before a Senate Appropriations Subcommittee. He noted that filings are expected to increase by almost 2% in 1980 and under present budget projections the IRS will reduce the number of audits performed next year from 2.4% to 2.1%. He pledged, however, that the IRS will continue to demonstrate a "sufficient audit presence. . . even in times of restrictive budgets" as it is one of the primary means to correct noncompliance and maintain public confidence in firm and fair tax administration.

Final regulations on the filing of claims for credit or refund of certain penalties assessed against income tax preparers have been published in the 5/14/79 Fed. Reg., pp. 27984-86. The rules are effective for claims filed after 6/13/79 although the IRS will accept claims filed in accordance with the regulations on or after 1/3/79. Final regulations on amounts payable to delinquent taxpayers exempt from a levy for the collection of unpaid tax were also published in the 5/14/79 Fed. Reg., pp. 27986-90. The regulations implement provisions of the Tax Reform Act of 1976 and provide rules for determining the taxpayer's payroll period and prescribed amounts exempt from levy each period. These regulations are effective for levies made after 2/28/77.

Foreign persons can generally avoid paying U.S. tax on their capital gains when they sell U.S. real estate according to a report released by the Treasury Department titled "Taxation of Foreign Investment in U.S. Real Estate." The report recommends modifying specific statutory provisions under which foreign owners are able to convert taxable gains into non-taxable gains and Treasury plans to work with the Congress and to develop formal legislative proposals in this area. Copies of the report are available from the GPO (S/N 048-000-00237-3).

Legislative proposals to clarify the rules governing classification of workers as independent contractors for tax purposes will be the subject of hearings to be held in June by the House Ways and Means Subcommittee on Select Revenue Measures. The exact date and time of the hearings will be announced later as the subcommittee will work around the current hearings on windfall profits taxes and mortgage subsidy loans. Subcommittee Chairman Dan Rostenkowski (D-Ill) announced that the panel will examine legislative solutions to the independent contractor problem as soon as possible in light of the 12/31/79 expiration date of the interim statute providing for the treatment of certain workers whose status was disputed.

SPECIAL: SELF-REGULATION OF ACCOUNTANTS TO BE EXAMINED BY SENATE SUBCOMMITTEE

The self-regulatory program of the accounting profession will be the subject of oversight hearings to be conducted by the Senate Governmental Affairs Subcommittee on Governmental Efficiency. These hearings, to be chaired by Sen. Thomas A. Eagleton (D-Mo), will be held in July. This date will allow the Subcommittee to review the SEC Second Annual Report on the Accounting Profession, expected to be released just prior to the hearings. In their First Annual Report to the Congress (July 1, 1978), the SEC concluded that it could not "responsibly recommend legislation to supersede or control self-regulation of accountants at this time." Stating that it was unwilling to support a statutory self-regulatory scheme for accountants introduced by Rep. John Moss (D-Cal) at that time last year, the SEC nevertheless warned the accounting profession that it hoped the

self-regulatory program continued to progress and develop in a generally satisfactory manner, eliminating the need to consider any legislation that would encompass comprehensive direct governmental regulation of accounting or accountants. Stressing the continuing nature of congressional and SEC concern and oversight, the SEC stated that the process of demonstrating that accountants themselves rather than the government should (i) retain primary authority to regulate their profession, (ii) insure and instill confidence in their professionalism and objectivity, (iii) maintain control over the quality of the work of the profession's members and discipline those who fail to adhere to those standards, and (iv) formulate appropriate accounting and auditing standards, is "one which will demand the profession's and the Commission's commitment for many years to come."

For further information contact:
Teresa Travers, Steven Woolf, or Susan Retter
202/872-8190

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American Institute of Certified Public Accountants

1620 Eye Street, N.W., Washington, D.C. 20006

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